



MEETING MINUTES

MILPITAS PLANNING COMMISSION

June 12, 2019 7:00 PM

**CITY HALL COUNCIL CHAMBERS
455 E. CALAVERAS BLVD., MILPITAS, CA 95035**

I. CALL MEETING TO ORDER

Chair Mandal called the meeting to order at 7:00 P.M.

II. ROLL CALL

Present: Chair Mandal, Vice Chair Ciardella, Commissioner Morris, Alcorn, Chuan, Chua, Tao

Absent: --

Staff: Ned Thomas, Jessica Garner, Heather Lee, Adrienne Smith, Krishna Kumar, Elizabeth Medina

III. PLEDGE OF ALLEGIANCE

Vice Chair Ciardella led the Pledge of Allegiance.

IV. CONFLICT OF INTEREST DECLARATION

City Attorney Heather Lee asked if any member of the Commission had any personal or financial conflict of interest related to any of the items on the agenda.

V. APPROVAL OF AGENDA

Chair Mandal asked if staff or Commissioners had changes to the agenda and there were none.

Motion to approve the June 12, 2019 agenda as submitted.

Motion/Second: Commissioner Alcorn/Commissioner Chuan

AYES: 7

NOES: 0

ABSTAIN: 0

VI. ANNOUNCEMENTS

Commissioner Chuan shared that today is his wife's birthday and wanted to say, "Happy Birthday" if she was watching. Mr. Chuan also mentioned it was Vice Chair Ciardella's birthday this past weekend.

Commissioner Chua mentioned it is the 121st Filipino Independence Day. Chair Mandal took the opportunity to recognize the Filipino community.

Planning Director Ned Thomas provided departmental updates to the commission regarding:

- Canceling 7/10 and 7/24 meetings, yet having a Special Meeting on 7/31. Motion/Second: Commissioner Morris/Chair Mandal. AYES: 7 (Chuan disclosed that he not be able attend July 31st meeting)

VII. PUBLIC FORUM

Chair Mandal invited members of the audience to address the commission.

Frank DeSmidt invited public to Milpitas Chamber of Commerce Awards Banquet on July 25th at Embassy Suites Hotel. He also shared the Chamber of Commerce will also host a Casino Night in September.

VIII. APPROVAL OF MEETING MINUTES

Chair Mandal called for approval of the May 8, 2019 and May 22, 2019 meeting minutes of the Planning Commission.

Commissioner Tao noted typo on May 22nd page 3; change from Ms. To Mr. Tao.

Motion to approve Planning Commission meeting minutes as amended.

Motion/Second: Commissioner Chua/Commissioner Alcorn

AYES: 7

NOES: 0

ABSTAIN: 0

IX. PUBLIC HEARING

IX-1 GROCERY STORE EXPANSION – 380 S MAIN ST – P-UA19-0003: A request for a Conditional Use Permit Amendment to expand an existing grocery store by 1,193 square feet. The project is categorically exempt from further CEQA review pursuant to Section 15301 (Existing Facilities) and, as a separate and independent basis, Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning), of the CEQA Guidelines. Project Planner: Adrienne Smith, (408) 586-3287, asmith@ci.milpitas.ca.gov

Project Planner Adrienne Smith showed a presentation and discussed the project.

Commissioner Morris asked if the business anticipates it will gain more customers from the expansion with the concern of enough parking. Ms. Smith stated there would be no net difference for the parking uses across the site and this site is currently over parked for the uses present; surplus of 16 spaces.

Commissioner Chuan, referenced the Staff report, asked about the rear yard set back not in compliance. Ms. Smith stated that building was built long time ago, has a legal non-conforming set back and it is standard for a Project Manager to access land development standards and share if it conforms. Ms. Smith also mentioned this project does not impact the footprint of the building.

Chair Mandal confirmed with City Attorney that older buildings with set backs less than ten feet are grandfathered in and do not have to be in compliance with current code. Ms. Lee stated it is allowed as legal non-conforming use.

Commissioner Tao asked if the current restrooms meet the current codes based on the expansion. Ms. Smith stated that the plans for this project have been routed to the Building and Fire departments for the proper review and approval. Mr. Tao inquired if previous tenant in the space had separate restrooms. Ms. Smith said there is a back

service hall where the restrooms are, that is used by all the tenants. Mr. Tao asked if there are any current building code requirements for the restroom fixtures. Ms. Smith shared that she was unable to speak to that inquiry as it is the prevue of the Building department and she did not have those details. Mr. Tao asked if the store is currently selling alcohol. Ms. Smith said no. Mr. Tao asked if shopping cart corrals are a requirement. Ms. Smith said that the code does not require that for grocery store uses. Mr. Tao shared that he feels that the trash/recycle bins seem to be inadequate where it may interfere with parking spaces; he recommended to update trash enclosures. Mr. Tao asked what kind of goods will be intended in the new space area. Ms. Smith said she believes they are increasing their space to increase their inventory but he can ask applicant. Ms. Smith, referencing the trash enclosure, stated she was unaware of any code enforcement issues.

Carl Schultz, architect of project, came to podium to take questions from the commissioners.

Tao asked what will be in the area of expansion. Mr. Schultz stated there will shelving, no refridgeration, no produce, only prepackage dry goods. Mr. Tao asked if there is current space fire sprinklered. Mr. Schultz stated that it is. Mr. Tao revisited his restroom question. Mr. Schultz said the salon did have a restroom. Mr. Tao then asked if, per code, the current two stalls will be suffient for expansion. Mr. Schultz said per the California Plumbing Code, it is sufficient and the facility accommodates the entire building. Mr. Tao noted he would like to discuss the trash enclosure at a more appropriate time.

Chair Mandal invited members of the audience to address the commission.

Frank Wong, member of Chinese Church of Christ in Milpitas for over 15 years, shared that the traffic is getting bad in the area of strip mall.

Motion to close the public hearing.

Motion/Second: Commissioner Morris/Commissioner Tao

AYES: 7

NOES: 0

Commissioner Alcorn asked if the traffic will be the same with removal of hair salon and expansion of store, Ms. Smith shared she is not positive about it, however, because we have an existing use doing an expansion, the code does not require to do a traffic study. Commissioner Alcorn asked what will maximum occupancy be after expansion of the space and average stay time of customers in store. Ms. Smith stated she did not have the answers to those questions, maximum occupancy is building code requirement.

Architect, Carl Schultz shared that the previous use of the spaces used to be two restaurants; which has a higher maxiumum occupancy than retail and currently have a surplus of parking. Mr. Alcorn recommended a dedicated entrance and exit to keep the flow of traffic going.

Commissioner Chua revisited Mr. Tao's concerns about trash and parking lot stating that the trash bin situation needs to be resolved. Ms. Smith clarified if Ms. Chua would like to see it as a project condition of approval. Ms. Chua said yes. Planning Director, Ned Thomas, reviewed plans set and number of parking spaces, and shared

that there is currently no design guidelines for enclosures at this moment; however, can be included as a condition of approval in the resolution to address adequate trash enclosure while applicants works to get building permits. Ms. Chua addressed the traffic concern from Mr. Wong and informed him that the City Council is looking into traffic studies throughout Milpitas, especially on Main Street.

Commissioner Tao clarified that the commission is not imposing heavy burdens onto the applicant but recommends to take parking spots extending to trash enclosure with a double gate to have visual obscurity.

Commissioner Morris asked if dedicated entrance/exit and signs be included immediately instead of getting a traffic study done. Mr. Thomas stated that type of concern would need to be addressed with the property owner; as we are reviewing the application of the tenants. Mr. Mandal agreed with Mr. Thomas, stating that we cannot put too much strenuous conditions on the project because it is a tenant's application to expand their business in Milpitas.

Chair Mandal stated he likes expansion and addressed trash item to tenants.

Commissioner Tao addressed property owner Laurita Ballaster about parking and asked to keep site well kept and orderly. Mr. Tao proposed to add a condition for the property owner to provide a plan about trash and recycled goods. The owner said she has no problem addressing these concerns. Ms. Smith looked into the zoning code for screening equipment/garbage area and shared that a chain linked fence will not been approved in the mixed used district; sharing that a opaque or block wall would the solution for this area. Mr. Tao deferred his concern to the Planning Director to remedy. Mr. Thomas proposed an additonal condition to be added to the resolution, *"The applicant and property owner shall submit a detailed plan for management of trash and traffic issues for all uses on the site including a recycling program for review and approval by the Planning Director prior to the issuance of the building permit for tenant improvements."* Mr. Tao found Mr. Thomas' solution satisfactory.

Commissioner Chua stated that she would like to address the trash item but not another chain link fence. Ms. Chua felt this condition is perfect as it addresses the trash bin, recycle bin and traffic.

Vice Chair Ciardella asked staff clarifying questions about trash area.

Motion to Staff recommends that the Planning Commission adopt Resolution No. 19-018 approving Conditional Use Permit Amendment No. UA19-0003, subject to the attached Conditions of Approval and Make Findings of CEQA Exemption. And, subject to the recommendations stated by Planning Director.

Motion/Second: Commissioner Chuan/Commissioner Alcorn

AYES: 7

NOES: 0

ABSTAIN: 0

IX-2 PRESCHOOL/DAY CARE USE PERMIT – 195 N MAIN ST – P-UP19-0001: A request for a Conditional Use Permit to permit an existing 1,451 square foot preschool/day care and an expansion of 1,050 square feet. The project is categorically

exempt from further CEQA review pursuant to Section 15301 (Existing Facilities) and, as a separate and independent basis, Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning), of the CEQA Guidelines. Project Planner: Adrienne Smith, (408) 586-3287, asmith@ci.milpitas.ca.gov

Project Planner Adrienne Smith showed a presentation and discussed the project.

Commissioner Morris asked if the plans have been forwarded to the Fire Department. Ms. Smith said because it involved “little ones”, the Fire Department makes certain to take a close look.

Commissioner Chua said she was happy to see there is more parking spaces than required.

Commissioner Tao asked if there site lighting available. Ms. Smith stated that she was unsure about that and mentioned that PD reviewed and approved plans with no recommendation of site lighting. Mr. Tao asked are there staff concerns about lighting. Ms. Smith stated she does not have concerns as PD did not see any concerns about this matter. Mr. Tao asked if the building fire sprinkled. Ms. Smith said she could not speak to that and FD also reviewed and approved the plans.

Commissioner Chuan asked what the site is currently being used for. Ms. Smith said the building is currently used as a community room/gathering space for events and a part of the space is being leased by the preschool. Mr. Chuan asked how late are events. Ms. Smith said they are held on weekends and possibly go past 6pm.

Chair Mandal asked if there will there be vines/hedges to secure children from being seen by strangers on the playground. Ms. Smtih said for the preschool use, the code does not prompt staff to look at that or set conditions of approval for that matter; however, this is a question that the applicant of the project can be asked.

Commissioner Chua mentioned she remembers that here are guidelines on how day cares should be established and doesn't remember vines/hedges being included in standards. Ms. Smith agreed that applicants must be compliant with State standards. Mr. Mandal stated his concern is protecting our children.

Architech, Jan Kamachi shared information about her involvement with the project and answered commissioners inquiries.

Commissioner Morris revisited comments from the Chair about visibilitaty. Ms. Kamachi stated that if needed, they can plant hedges; however, the playground visibility has not been problem in the past. Addressing Mr. Tao's question, Ms. Kamachi confirmed there is lighting in the eaves and around the building.

Commissioner Chua, comparing to the project site, mentioned that there is a daycare on Dempsey and on their playground children are visible. Ms. Kamachi agreed sharing that State does not require playgrounds to be closed off.

Vice Chair Ciardella asked if the State requires any close circuit filming. Ms. Smith shared that State does not and that PD would make that recommendation if there were problems in the past for this site.

Commissioner Tao asked, with the addition of more children, will there be

additional procedures for check in/check outs. Ms. Kamachi said there will not and that it is mandated by the State. Addressing Mr. Tao's inquiry about sprinkler systems, Ms. Kamachi stated that the building is not sprinkled, the FD is not requiring it but they will be installing a new fire alarm system at the Building permit step.

Commissioner Morris asked if applicant would be interested in cameras. Ms. Meena, owner of the preschool, shared that having cameras are in the plans for business and safety purposes.

Commissioner Chuan thanked applicant for putting children first and for their willingness to install hedges and cameras. Ms. Meena shared that she would like more opportunity more businesses in the City of Milpitas.

Commissioners Chua also appreciated business owner for her business of 5 years in Milpitas.

Planning Commissioner shared that applicant should connect with PD in regards to providing input on secluding the playground area.

Chair Mandal invited members of the audience to address the commission.

Motion to close the public hearing.

Motion/Second: Commissioner Alcorn/Commissioner Chuan

AYES: 7

NOES: 0

Motion to consider the exemption in accordance with CEQA and adopt Resolution No. 19-019, approving Conditional Use Permit No. UP19-0001 subject to the attached Conditions of Approval. And, subject to recommendations stated by Planning Director.

Motion/Second: Commissioner Chua/Commissioner Tao

AYES: 7

NOES: 0

ABSTAIN: 0

IX-3 CHEVRON – 1490 S. PARK VICTORIA DRIVE – P-UP18-0013: A request for a Conditional Use Permit to allow for beer and wine sales for offsite consumption from an existing Chevron gas station located at 1490 S. Park Victoria Drive. The project is categorically exempt from further CEQA review pursuant to Section 15301 (Existing Facilities) and, as a separate and independent basis, Section 15183, of the CEQA Guidelines. Project Planner: Krishna Kumar, (408) 586-3276, kkumar@ci.milpitas.ca.gov

Project Planner Krishna Kumar showed a presentation and discussed the project.

Commissioner Chua asked for clarification of the ABC Licenses Type 20 and Type 28, and their limitations. Ms. Kumar stated that applicant is applying for Type 20.

Vice Chair Ciardella asked if the gas station across the street also sells beer and wine. Ms. Kumar said she believes so. Mr. Ciardella wanted clarification of how the applicant would demonstrate to ABC that is okay. Ms. Kumar said she is not aware of ABC processes but stated that Chevron is present to answer that question for them.

Commissioner Tao asked if this this project required Phase 1 Environmental. Ms. Kumar said no because they are exempt by 15301, applying for offsale beer and wine. Mr. Tao asked if Chevron operates other stores with beer and wines sales within the City of Mlpitas. Ms. Kumar said she is unsure and deferred the question to the representatives of Chevron. Mr. Tao asked if applicant, Chevron have any violations of ABC permits. Ms. Kumar said she is unaware of that; however, PD did review the project and did have recommendation for the applicant in regards to lighting and security.

Applicant Sergio Onares, Development Manager at Chevron, came to podium to address questions from the commissioners.

Commissioner Tao asked if Chevron operates Type 20 ABC licenses stores in Milpitas. Mr. Onares said he would have to defer that questions to his business consultant for the area. In regards the ABC license, approving the necessity for public conveyence, Mr. Onares said their ABC attorney is not present; but shared that the request is to allow applicant make the application with the ABC Board, and are here tonight asking the Planning Commission to allow the opportunity to apply.

Vice Chair Ciardella asked fellow commissioners and staff if applicants normally have ABC License before coming to Planning Commission. Mr. Thomas clarified that tonight the Planning Commission, as a local jurisdiction, will be either approving/not approving their application to apply for an ABC license, the necessity for public conveyence.

Commissioner Chua asked if applicant experienced going to ABC board. Mr. Onares stated they have not gone, they have their attorney do it.

Chair Mandal asked applicant to discuss verification process to purchase alcohol. Chevron's business consultant confirmed that the other station in Milpitas does not have a Type 20 for alcohol and explained the age verification process to sell alcohol.

Chair Mandal invited members of the audience to address the commission.

Motion to close the public hearing.

Motion/Second: Commissioner Alcorn/Ciardella

AYES: 7

NOES: 0

Motion to adopt Resolution No. 19-017 approving Conditional Use Permit No. P-UP18-0013, subject to the attached Conditions of Approval.

Motion/Second: Commissioner Morris/Alcorn

AYES: 6

NOES: 1 (Vice Ciardella)

ABSTAIN: 0

X. NEW BUSINESS

NO ITEMS

XI. ADJOURNMENT

The meeting was adjourned at PM 8:48.

Motion to adjourn to the next meeting.

Motion/Second: Commissioner Alcorn/Commissioner Chuan

AYES: 7

NOES: 0

*Meeting Minutes submitted by
Planning Commission Secretary Elizabeth Medina*